

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEON COLEMAN.

CASE NO. 13-13147

PLAINTIFF,

v.

SENIOR UNITED STATES DISTRICT
JUDGE ARTHUR J. TARNOW

CHRISTINE TOPLE, ET AL.,

MAGISTRATE JUDGE DAVID R. GRAND

DEFENDANTS.

**ORDER ADOPTING THE REPORT AND RECOMMENDATION [119],
DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY
JUDGMENT [41], GRANTING MDOC DEFENDANTS' MOTIONS TO
DISMISS [11][28], GRANTING CORIZON DEFENDANTS' MOTION TO
DISMISS [62], AND DISMISSING CASE AGAINST UNSERVED
DEFENDANTS**

Before the Court is the Magistrate Judge's Report and Recommendation [119], filed on July 17, 2014. The Report and Recommendation [119] recommends that the Court deny Plaintiff's Motion for Partial Summary Judgment [41], grant MDOC Defendants' Motions to Dismiss [11][28], grant Corizon Defendants' Motion to Dismiss [62], and dismiss Plaintiff's Complaint [1] in its entirety, including those claims against unserved Defendants.

On August 5, 2014, Plaintiff filed Objections [125] to this Report and Recommendation [119]. Specifically, Plaintiff objects to the Magistrate Judge's recommendation to dismiss Plaintiff's claims against certain unserved Defendants. The Report and Recommendation [119] lists these unserved Defendants as HUM

Nixon, Aetna Insurance, John Doe (MRF Eye Doctor), and Dr. Squire. None of these Defendants bring any of the pending motions now before the Court.

Instead, Plaintiff's Objections [125] only pertain to Dr. Squire and Dr. Caulk, who Plaintiff identifies as the John Doe Defendant. At the same time, Plaintiff's Objections [125] seem to attempt to add additional Defendants – Dr. Abdullah, DDS Fletcher, Dr. Pomeroy, and Dr. Stevie. Because Plaintiff does not object to the dismissal of his Complaint [1] as to unserved Defendants HUM Nixon and Aetna Insurance, and after reviewing the record, the Court adopts the Magistrate Judge's recommendation as to the dismissal of these two unserved Defendants. Even though Plaintiff is a pro se litigant, and the Court gives him some leniency, and even though Plaintiff appears to have some confusion as to the service of Defendants, the Court further adopts the Magistrate Judge's recommendation to dismiss Plaintiff's Complaint [1] as to unserved Defendants Dr. Squire and John Doe.

Plaintiff's Objections [125] also request that Magistrate Judge Grand recuse himself from this matter. Title 28 U.S.C. § 455 governs the disqualification of judicial officers. The relevant section of title 28 reads: "[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). "[A] violation of § 455(a) is established when a reasonable person, knowing the relevant facts, would expect that a justice, judge, or magistrate knew of circumstances creating an

appearance of partiality, notwithstanding a finding that the judge was not actually conscious of those circumstances.” *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 850 (1988). Plaintiff’s Objections [125] only state that Magistrate Judge Grand has “allowed his personal opinion to cloud his judicial experience.” As such, Plaintiff has not pointed to any facts that support the recusal of Magistrate Judge Grand, and Plaintiff’s objection here is denied.

Finally, Plaintiff’s Objections [125] makes reference to Plaintiff’s pleading [126], which Plaintiff refers to as “Imminent Danger.” This pleading [126] lists a multitude of allegations, claims, and requests for relief. However, it only reiterates those allegations and claims fully reviewed in the Report and Recommendation [119], and does not alter the findings and conclusions of the Report and Recommendation [119].

Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation [119] is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Partial Summary Judgment [41] is **DENIED**.

IT IS FURTHER ORDERED that the MDOC Defendants’ Motions to Dismiss [11][28] are **GRANTED**.

IT IS FURTHER ORDERED that the Corizon Defendants' Motion to Dismiss [62] is **GRANTED**.

IT IS FURTHER ORDERED that the unserved Defendants Dr. Squire and John Doe are dismissed from this matter.

SO ORDERED.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
SENIOR UNITED STATES DISTRICT JUDGE

Dated: September 10, 2014